



Billing Code: 4410-14

DEPARTMENT OF JUSTICE

[AG Order No. 4645-2020]

Clarifying Lawful Overseas Use of Data Act; Attorney General Certification and Determination

AGENCY: Department of Justice.

ACTION: Notice of the certification and determination by the Attorney General regarding the Agreement between the Government of the United States of America (“U.S.” or the “United States”) and the Government of the United Kingdom of Great Britain and Northern Ireland (“U.K.” or the “United Kingdom”) on Access to Electronic Data for the Purpose of Countering Serious Crime (the “U.S.-U.K. CLOUD Agreement”).

SUMMARY: In accordance with the Clarifying Lawful Overseas Use of Data Act (“CLOUD Act”), relating to an executive agreement governing access by a foreign government to electronic data, notice is given that the Attorney General has determined, and has submitted a written certification of such determination to Congress, that the U.S.-U.K. CLOUD Agreement satisfies the requirements of the CLOUD Act.

DATES: On November 27, 2019, the Attorney General certified that he had determined that the U.S.-U.K. CLOUD Agreement satisfies the requirements of the CLOUD Act. On January 10, 2020, the Attorney General completed the process of providing his certification to Congress. The U.S.-U.K. CLOUD Agreement will enter into force not

earlier than July 8, 2020, unless Congress enacts a joint resolution of disapproval, in accordance with the CLOUD Act.

FOR FURTHER INFORMATION CONTACT: Richard Downing, Deputy Assistant Attorney General, Criminal Division, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001, email: *Criminal.Division@usdoj.gov*, phone: 202-514-2000.

SUPPLEMENTARY INFORMATION:

On March 23, 2018, the CLOUD Act was signed into law. Public Law 115-141, Div. V, 132 Stat. 1213–25. The CLOUD Act lifts certain restrictions under U.S. law on companies disclosing electronic data, in response to qualifying, lawful orders in investigations of serious crime, directly to a qualifying foreign government with which the United States has entered into an executive agreement governing access by the foreign government to covered data. *Id.* at 132 Stat. at 1213–17. Before an agreement can go into effect, the Attorney General, with the concurrence of the Secretary of State, must determine that the considerations outlined in 18 U.S.C. 2523(b) have been met. The Attorney General must then submit a written certification of his determination to Congress, including an explanation of each consideration required by 18 U.S.C. 2523(b), not later than 7 days after the date on which the Attorney General certifies the executive agreement. 18 U.S.C. 2523(d)(1). The executive agreement will enter into force not earlier than 180 days after the date the Attorney General notifies Congress, unless Congress enacts a joint resolution of disapproval, in accordance with the CLOUD Act. 18 U.S.C. 2523(d)(2). Under 18 U.S.C. 2523(g), the Attorney General’s determination or certification under 18 U.S.C. 2523(b) must be published in the Federal Register as soon as is reasonably practicable.

Determination and Certification Pursuant to Section 2523(b)

On October 3, 2019, the Home Secretary of the United Kingdom and the Attorney General of the United States signed the U.S.-U.K. CLOUD Agreement. A copy of the U.S.-U.K. CLOUD Agreement is available at: <https://www.justice.gov/dag/cloudact>. On November 27, 2019, the Attorney General certified his determination that the U.S.-U.K. CLOUD Agreement satisfies the requirements of 18 U.S.C. 2523(b). The Attorney General's determination was based on the considerations in paragraphs (1), (2), (3), and (4) of 18 U.S.C. 2523(b), as explained in the "Explanation of Each Consideration in Determining that the Agreement Satisfies the Requirements of 18 U.S.C. § 2523(b)," available at: <https://www.justice.gov/dag/cloudact>. Secretary of State Pompeo concurred with the Attorney General's determination.

Notification to Congress Pursuant to Section 2523(d)

The Department of Justice ("Department") transmitted the U.S.-U.K. CLOUD Agreement certification to the Committee on the Judiciary and the Committee on Foreign Relations of the Senate on December 4, 2019. Although the Department intended to notify the Committee on the Judiciary and the Committee on Foreign Affairs of the House of Representatives on the same date, the Department, because of a clerical error, did not provide actual notification to those committees until January 10, 2020. Because the Department completed this notice requirement on January 10, 2020, the U.S.-U.K. CLOUD Agreement will enter into force not earlier than July 8, 2020, absent the enactment into law of a resolution of disapproval as set forth under 18 U.S.C. 2523(d).

Non-reviewable Determination and Certification

In accordance with 18 U.S.C. 2523(c), the determination and certification by the Attorney General described in this notice are not subject to judicial or administrative review.

Dated: February 25, 2020.

William P. Barr,
Attorney General.

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